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AN ACT

RELATING TO MINIMUM WAGES; CLARIFYING THE MINIMUM WAGE FOR  
TIPPED EMPLOYEES; AMENDING SECTION 50-4-22 NMSA 1978 (BEING  
LAWS 1955, CHAPTER 200, SECTION 3, AS AMENDED).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 50-4-22 NMSA 1978 (being Laws 1955,  
Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES.--

A. An employer, except as provided in Section  
50-4-21 NMSA 1978, shall pay the minimum wage rate of five  
dollars fifteen cents (\$5.15) an hour, except that an  
employer furnishing food, utilities, supplies or housing to  
an employee who is engaged in agriculture may deduct the  
reasonable value of such furnished items from any wages due  
to the employee.

B. An employee subject to Subsection A of this  
section who customarily and regularly receives more than  
thirty dollars (\$30.00) a month in tips shall be paid a  
minimum hourly wage of two dollars thirteen cents (\$2.13).  
The employer may consider tips as part of wages, but the tips  
combined with the employer's cash wage shall not equal less  
than five dollars sixty cents (\$5.60) per hour. All tips  
received by such employees shall be retained by the employee,  
except that nothing in this section shall prohibit the

1 pooling of tips among employees.

2 C. An employee subject to the provisions of  
3 Subsection A of this section shall not be required to work  
4 more than forty hours in any week of seven days, unless the  
5 employee is paid one and one-half times the employee's  
6 regular hourly rate of pay for all hours worked in excess of  
7 forty hours. For an employee who is paid a fixed salary for  
8 fluctuating hours and who is employed by an employer a  
9 majority of whose business in New Mexico consists of  
10 providing investigative services to the federal government,  
11 the hourly rate may be calculated in accordance with the  
12 provisions of the federal Fair Labor Standards Act of 1938  
13 and the regulations pursuant to that act; provided that in no  
14 case shall the hourly rate be less than the federal minimum  
15 wage."

16 Section 2. APPLICABILITY.--The provisions of Subsection  
17 B of Section 1 of this 2005 act apply to wages earned on or  
18 after July 1, 2005.

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